

25-17-202. Waste tire recycling development fee - cash fund created - repeal.

(1) (a) (I) On and after July 1, 2000, a recycling development fee of seventy-five cents shall be collected on any waste motor vehicle tire for any passenger vehicle, including any truck, weighing less than fifteen thousand pounds. In addition, such fee shall be collected on truck tires, including truck tractor, trailer, and semitrailer, weighing more than fifteen thousand pounds; except that no fee shall be collected for tires that are recapped or otherwise reprocessed for use. The fee authorized by this section shall be collected only at such time as the owner of the tire delivers or transfers the waste tire to a retailer of new tires for disposal and shall be stated and shown as a separate and distinct item on the statement from the retailer to the customer.

(II) (Deleted by amendment, L. 2005, p. 288, § 35, effective August 8, 2005.)

(III) (A) The recycling development fee in subparagraph (I) of this paragraph (a) shall include, in addition to the seventy-five-cent fee, a surcharge of twenty-five cents, which shall be credited to the processors and end users of waste tires cash fund created in section [25-17-202.5](#).

(B) This subparagraph (III) is repealed, effective July 1, 2012.

(IV) On and after July 1, 2007, an additional fee of fifty cents shall be collected on any waste motor vehicle tire for any passenger vehicle, including any truck weighing less than fifteen thousand pounds. In addition, the fee imposed by this subparagraph (IV) shall also be collected on truck tires, including tires on truck tractors, trailers, and semitrailers, weighing more than fifteen thousand pounds; except that no fee shall be collected for tires that are recapped or otherwise reprocessed for use. From the moneys collected by the new fee imposed by this subparagraph (IV), fifty percent shall be credited to the recycling resources economic opportunity fund created in section [25-16.5-106.5](#). The remaining fifty percent shall be credited to the waste tire cleanup fund created in section [24-32-114](#) (1), C.R.S., and shall be distributed as follows:

(A) Fifty percent shall be transferred to the department of local affairs to be used for the same purposes as authorized pursuant to section [24-32-114](#) (1) (c), C.R.S.; and

(B) Fifty percent shall be transferred to the department of local affairs to be used for the same purposes as authorized pursuant to section [24-32-114](#) (1) (a), C.R.S.

(b) For the purposes of this part 2:

(I) (Deleted by amendment, L. 2000, p. 806, § 1, effective May 24, 2000.)

(II) "Motor vehicle tire" means any tire used for a motor vehicle, as such term is defined in section [42-1-102](#) (58), C.R.S.

(III) and (IV) (Deleted by amendment, L. 2000, p. 806, § 1, effective May 24, 2000.)

(2) (a) The retailers of new tires or a retailer of motor vehicles that accepts exchanged property as described in section [39-26-102](#) (7) (a) (II), C.R.S., shall collect the fee.

(b) The retailer shall submit to the department of revenue any fees collected with any report required by the department in conjunction with the remittance of any sales tax remitted in accordance with article [26](#) of title [39](#), C.R.S. The retailer may retain from fees collected an amount equal to the retailer's direct cost in complying with the provisions of this section, which amount shall not exceed three and one-third percent of the fee collected.

(3) (a) The department of revenue shall transmit the fee with a report of its direct and indirect administrative costs in complying with this section to the state treasurer, who shall credit the same to the waste tire recycling development

cash fund, which fund is hereby created. The general assembly shall make annual appropriations out of the fund to:

(I) The department of revenue in an amount equal to the department of revenue's direct and indirect administrative costs, but which amount shall not exceed three and one-third percent of the total amount of fees transmitted to the treasurer;

(II) The department of public health and environment in an amount equal to the department of public health and environment's direct and indirect administrative costs incurred pursuant to section [25-17-204](#), but which amount shall not exceed twenty-five thousand dollars in fiscal year 2005-06 or fifteen thousand dollars in fiscal years 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, and 2011-12.

(b) On and after July 1, 2000, the remaining moneys in the fund shall be subject to annual appropriation or transfer by the general assembly as follows:

(I) (A) Of the new revenues deposited in the fund each fiscal year, no more than two-thirds shall be appropriated to the department of local affairs for allocation to the division of local government for the purposes described in section [24-32-114](#), C.R.S.

(B) Any moneys in the fund not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

(II) (A) Before July 1, 2007, the remaining moneys shall be transferred to the advanced technology fund on a quarterly basis, for the purposes described in section [25-16.5-105](#) (2). The transfer of moneys shall be made on June 1, 2001, and at the end of each quarter of each successive fiscal year. Such additional transfers as may be necessary to bring the waste tire recycling development cash fund into compliance with the limit on uncommitted cash fund reserves, as specified in section [24-75-402](#), C.R.S., may also be made during the fiscal year.

(B) (Deleted by amendment, L. 2006, p. 175, § 2, effective July 1, 2006.)

(III) On and after July 1, 2007, sixty percent of the remaining moneys shall be transferred to the advanced technology fund created in section [25-16.5-106.5](#) (2) (a) on a quarterly basis for the purposes specified in section [25-16.5-106.5](#) (2) (b). The other forty percent of the remaining moneys shall be transferred to the innovative higher education research fund created in section [23-19.7-104](#), C.R.S., on a quarterly basis for the purposes specified in sections [23-19.7-103](#) (2) and [23-19.7-104](#), C.R.S. Transfers of moneys shall be made at the end of each quarter. Such additional transfers as may be necessary to bring the waste tire recycling development cash fund into compliance with the limit on uncommitted cash fund reserves, as specified in section [24-75-402](#), C.R.S., may also be made during the fiscal year.

(c) The state treasurer shall invest the moneys in the waste tire recycling development cash fund so long as said moneys are timely available to fund the annual appropriations authorized by this subsection (3). Investments shall be those otherwise permitted by state law, and interest or any other return on the investments shall be paid into the waste tire recycling development cash fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(d) Notwithstanding any provision of this section to the contrary, on May 28, 2002, the state treasurer shall deduct six hundred thousand dollars from the waste tire recycling development cash fund and transfer such sum to the general fund.

(3.2) (Deleted by amendment, L. 2000, p. 806, § 1, effective May 24, 2000.)

(3.5) (a) (Deleted by amendment, L. 2001, p. 797, § 1, effective June 1, 2001.)

(b) This subsection (3.5) is repealed, effective upon receipt by the general assembly of a certification by the executive director of the department of local affairs to the general assembly that all illegal waste tire dumps or storage facilities in the state have been closed and the tires held by such facilities have been disposed of or recycled at a state or county approved storage, disposal, or recycling facility. Such certification shall be filed with the speaker of the house of representatives and the president of the senate on behalf of the general assembly and with the director of the office of

legislative legal services. Any funds remaining in the waste tire cleanup fund created pursuant to section [24-32-114](#), C.R.S., upon the repeal of this subsection (3.5) shall revert to the waste tire recycling development cash fund created pursuant to subsection (3) of this section.

(4) Any person who fails to comply with the provisions of this section shall be subject to the provisions of section [39-21-118](#), C.R.S.

Source: **L. 93:** Entire part added, p. 2135, § 10, effective June 12. **L. 94:** (1)(b) amended, p. 2564, § 74, effective January 1, 1995. **L. 95:** (3) amended and (3.5) added, p. 1113, § 2, effective May 31. **L. 96:** (3) amended, p. 814, § 4, effective May 23. **L. 98:** (3.5)(a) amended, p. 1066, § 3, effective June 1; (1)(b), (3), and (3.5)(a) amended and (3.2) added, p. 421, § 2, effective August 5; (3.5)(a) amended, p. 1067, § 4, effective August 5. **L. 2000:** (1)(b), (3), and (3.2) amended, p. 806, § 1, effective May 24; (1)(a) and (3) amended, p. 1541, § 2, effective June 1. **L. 2001:** (3)(a), (3)(b), and (3.5) amended, p. 797, § 1, effective June 1. **L. 2002:** (3)(d) added, p. 672, § 4, effective May 28. **L. 2003:** (3)(b)(II) amended, p. 1544, § 4, effective May 1; (1)(a)(III) added, p. 1968, § 1, effective January 1, 2004. **L. 2005:** (3)(a) amended, p. 707, § 2, effective June 1; (1)(a)(I), (1)(a)(II), and (1)(a)(III)(A) amended, p. 288, § 35, effective August 8. **L. 2006:** (1)(a)(III), (3)(a)(II), and (3)(b) amended, pp. 174, 175, §§ 1, 2, effective July 1. **L. 2007:** (3)(b)(II)(A) amended and (3)(b)(III) added, p. 1603, § 4, effective May 31; (1)(a)(I), (1)(b)(II), and (2) amended and (1)(a)(IV) added, pp. 1141, 1142, §§ 6, 7, effective July 1.

Editor's note: (1) Amendments to subsection (3) by House Bill 00-1430 and House Bill 00-1167 were harmonized.

(2) As of date of publication, certification that all illegal waste tire dumps or storage facilities have been closed, as specified in subsection (3.5)(b) is not known.

Cross references: For the legislative declaration contained in the 1998 act amending subsections (1)(b), (3), and (3.5)(a) and enacting subsection (3.2), see section 1 of chapter 146, Session Laws of Colorado 1998; for the legislative declaration contained in the 2007 act amending subsections (1)(a)(I), (1)(b)(II), and (2) and enacting subsection (1)(a)(IV), see section 2 of chapter 278, Session Laws of Colorado 2007.